

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JULIO CESAR NAVAS,

3:18-cv-00073-MMD-CBC

**Plaintiff,**

v.

QUALLS, et. al.,

## **ORDER**

## Defendants.

Plaintiff Julio Cesar Navas is a prisoner who has submitted a pro se civil rights complaint and an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 4). Having reviewed the application and the record in this case, the court finds Plaintiff's application to proceed *in forma pauperis* is denied.

## I. DISCUSSION

Under the Prison Litigation Reform Act, if a prisoner has "on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or an appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted," that prisoner shall be precluded from commencing any new cases *in forma pauperis* except upon a showing of an imminent danger of serious physical injury. 28 U.S.C. § 1915(g). This provision applies to this case.

On at least three occasions this court has dismissed civil actions commenced by Plaintiff for failure to state a claim for which relief could be granted. See *Navas v. State of Nevada*, Case No. 3:06-cv-0262-RCJ-VPC (dismissed case for failure to state a claim and expressly held that the dismissal would count as Plaintiff's "third strike" pursuant to 28 U.S.C. § 1915(q))<sup>1</sup>; *Julio Cesar Navas v. Anna Marie Navas, et.al.*, CV-

<sup>1</sup> In Case No. 3:06-cv-0262-RCJ-VPC, the court explicitly stated that "if plaintiff seeks *in forma pauperis* status for the filing of a lawsuit in the future, he must attach a copy of this Order to his application . . . or plainly inform the court in such application

1 N-04-0101-HDM-VPC (dismissal for failure to state a claim); *Julio Navas v. Second*  
2 *Judicial District Court*, CV-N-04-653-HDM-VPC (dismissal for failure to state a claim).  
3 The court takes judicial notice of these court records. Fed. R. Evid. 201.

4 In addition, there are no allegations in the complaint or any other filing in the  
5 record that Plaintiff is in imminent danger of any serious physical injury. Accordingly,  
6 Plaintiff's application to proceed in forma pauperis must be denied and Plaintiff must  
7 pre-pay the full \$400.00 filing fee in order for this case to proceed.

8 **II. CONCLUSION**

9 For the forgoing reasons, it is ordered that Plaintiff's application to proceed *in*  
10 *forma pauperis* (ECF No. 4) is **DENIED**;

11 It is further ordered that Plaintiff shall have thirty (30) days from the entry of this  
12 order to pay the full filing fee of \$400.00. If Plaintiff fails to do so, this court will issue a  
13 report and recommendation that this case be dismissed due to Plaintiff's failure to pay  
14 the filing fee.

15 It is further ordered that the Clerk of the Court shall send Plaintiff two copies of  
16 this order. Plaintiff shall make arrangements to have one copy of this order attached to  
17 the check paying the filing fee.

18 It is further ordered that the Clerk of Court shall retain a copy of the complaint  
19 (ECF No. 1-1), but not file it at this time.

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21 **DATED:** 10/24/2018

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24 **UNITED STATES MAGISTRATE JUDGE**  
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27 that he has been held subject to the restrictions of 28 U.S.C. § 1915(g)." Plaintiff failed to  
28 attach the order to the the current application. In addition, the current application makes  
no mention of the order or the previous findings in this case..